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Enforcement

U.S. COMMODITY FUTURES TRADING COMMISSION

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MEMO ENDORSED

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October 8, 2013

BY EMAIL (Abrams NYSDChambers@nysd.uscourts.gov)

The Honorable Ronnie Abrams
United States District Court
Southern District of New York
500 Pearl Street, Room 620
New York, New York 10007

Re: *U.S. Commodity Futures Trading Commission v. Brian Hunter,*
No. 07-CV-6682 (RA)

Dear Judge Abrams:

I am a Deputy Director with the Division of Enforcement of the U.S. Commodity Futures Trading Commission (the “Commission”) and represent the Commission in the above-referenced matter. I write to renew the Commission’s request, originally made by letter to the Court dated October 1, 2013, for a stay of the trial of this case, currently scheduled to begin on November 12, 2013.

In our October 1st letter to the Court, we explained that Plaintiff ceased regular operation, and that all non-essential employees have been furloughed¹ and are prohibited by law from performing actions related to their employment. As such, we requested that the Court stay all deadlines in this case until such time as the furlough issues are resolved. Defendant Hunter consented to that request. On the same day, the Court ordered that certain deadlines be stayed but ordered that the trial date remain, for the time being, as scheduled for November 12.

When we first requested a stay on October 1st, the extent of the potential government shutdown was unclear. As of now, the furloughs have been in effect for one week and, based upon press reports of statements made by officials involved with the funding of the government, there is no indication of when the government shutdown will be resolved.

¹ The undersigned has been excepted from the furlough.

The Honorable Ronnie Abrams
October 8, 2013
Page 2

As a result of the shutdown and the work restrictions placed on CFTC staff, Plaintiff has been disadvantaged by being unable to prepare for trial at full capacity over the course of the last week. In addition, the shutdown has resulted in a "stop work" order to our expert witness prohibiting him from performing any work related to this trial. Likewise, our litigation support staff received a stop work order. Plaintiff is also unable to ensure that trial subpoenas have been properly served, risking that witnesses may not be timely served and may be unavailable to testify during the trial.

Therefore, given these accumulating burdens and the fact that we are approaching the final month before the trial is set to begin, I respectfully request that the Court reconsider the stay of the trial date. Specifically, we request that the Court order that the trial be adjourned to a date to be determined promptly upon the resolution of the government shutdown and corresponding furloughs of government employees. At that time, if the Court grants the stay, Plaintiff will consult with counsel for the Defendant and request a conference with the Court to set a new trial date convenient to the Court.

Respectfully submitted,

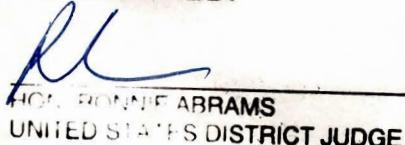


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cc: Zaharah Markoe, Esq. (zaharah.markoe@kobrekim.com)

After considering the Commission's request and Defendant's opposition, the Court grants the Commission's application. All deadlines in this case are stayed and the trial is adjourned sine die. Upon resolution of the government shutdown and furlough of government employees, the parties shall jointly contact Courtroom Deputy Allison Cavale at (212) 805-0162 to schedule an immediate conference.

SO ORDERED:



HON. RONNIE ABRAMS
UNITED STATES DISTRICT JUDGE

10/21/13